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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,349	12/09/2003	Mario Meggiolan	CAM3-PT011.1	3561
3624	7590	05/06/2004	EXAMINER	
VOLPE AND KOENIG, P.C. UNITED PLAZA, SUITE 1600 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103			BELLINGER, JASON R	
			ART UNIT	PAPER NUMBER
			3617	

DATE MAILED: 05/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/731,349

Applicant(s)

MEGGIOLAN, MARIO

Examiner

Jason R Bellinger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-10 and 12-15 is/are rejected.
- 7) ☒ Claim(s) 3 and 11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 10/216,259.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/9/03</u> . | 6) <input type="checkbox"/> Other: ____ |

Specification

1. The disclosure is objected to because of the following informalities: In line 2 of paragraph 003 of the specification, the phrase --now US Patent 6,722,743 B2-- should be inserted after the filing date of the parent application.

In line 2 of paragraph 0028 and line 1 of paragraph 0030, the term "centring" should be replaced with the term --centering-- for grammatical clarity.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 4-10, and 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Dietrich ('293). In Figure 4, Dietrich shows a spoke bicycle wheel having a hub 72 with a first securing portion 74 spaced apart from a second securing portion 76 in the direction of the longitudinal axis of the hub 72, and a rim 78. A plurality of spoke groups made up of four spokes (namely two adjacent radial spokes 80 and a pair of oppositely oriented tangential spokes 82) connects the rim 78 to the hub 72. Two spokes in each spoke group are attached to the first portion 74 of the hub 72 (namely the radial spokes 80), while the remaining spokes are attached to the second portion 76 of the hub 72 (namely the tangential spokes 82).

The spokes of each group include at least one radial spoke 80 and the remaining spokes are non-radial 82. The points of attachment on the rim 78 for the spokes of each radial member 80 are mutually equidistant around the circumference of the rim 78. The spoke of each group includes at least one spoke in a clockwise orientation, and at least one spoke in a counter-clockwise orientation. The total number of spokes on the wheel oriented in the clockwise direction is the same as the total number of spokes on the wheel oriented in the counter-clockwise direction.

The plurality of spoke groupings are assembled to the hub 72 and rim 78, with two spokes in each group attached to the first portion 74 of the hub 72 and the remaining two spokes in each group attached to the second portion 76 of the hub 72. The spokes are then tensioned to achieve centering of the wheel 70.

The hub 72 is elongated with the spaced apart first and second securing portions (74 and 76, respectively) that each define a plurality of spoke receiving apertures, which are circumferentially spaced about the central axis of the hub 72. The rim 78 includes a plurality of spoke receiving apertures defined therein. The spokes are attached through the apertures in both the hub 72 and the rim 78.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1, 7, 8, and 9 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2, 5, 8, and 9 & 11, respectively of U.S. Patent No. 6,722,743 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because the patented claims include all of the limitations set forth in the instant claims, but also include subject matter not present in the instant claims. Therefore, the instant claims are broader in scope than the patented claims, and it is obvious that the Applicant is claiming the same invention, only in broader terms.

Allowable Subject Matter

6. Claims 3 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are considered to show bicycle wheels having a

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plurality of spoke groupings consisting of four spokes. For example, Shih shows a wheel of the type described above.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason R Bellinger whose telephone number is 703-308-6298. The examiner can normally be reached on Mon - Thurs (9:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason R Bellinger
Examiner
Art Unit 3617


jrb


S. JOSEPH MORANO
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